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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,007	09/09/2003	Michal Hlavac	INGEENI-3	3503
7590 Pandiscio & Pandiscio, P.C. 470 Totten Pond Road Waltham, MA 02451-1914			EXAMINER RADA, ALEX P	
		ART UNIT 3714	PAPER NUMBER	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	04/24/2007	PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/659,007	HLAVAC ET AL.
	Examiner Alex P. Rada	Art Unit 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 February 2007.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 February 2007 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>3/9/07</u>	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### *Response to Amendment*

In response to the amendment filed February 5, 2007 wherein the applicant amends claim 1, submits replacement drawings and claims 1-8 are pending in this application.

### *Oath/Declaration*

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

The examiner notes that the statement submitted should read, "I acknowledge the duty to disclose information which is material to patentability of this application in accordance with Title 37, Code of Federal Regulations section 1.56."

### *Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 1 state "the individual also learns the skill" (pg. 2, lines 1-2). This limitation of the claim is not concrete. There is no reasonable expectation that the user will learn the skill through the method of the present invention. This is merely the intended use of the invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Rapoza et al. (US Patent No. 6,561,811).

Regarding claim 1, Rapoza discloses a method of providing a virtual world comprising a virtual environment (col. 7, lines 51-53), a plurality of virtual elements within the virtual environment, each of the virtual elements being able of interacting with other virtual elements in the virtual environment, as well as with the user (col. 8, lines 47-53; col. 12, line 64 – col. 13, line 10); wherein at least one of the virtual elements is a virtual character (col. 8, lines 51-53), the character having a behavior state (i.e., CHA, CON), an emotion state (i.e., CONF), and a learning state (i.e., INT) (col. 17, lines 39-48, lines 62+), and the learning state is capable of changing in response to commands from the user controls (e.g., col. 16, lines 60-67); presenting a learning circumstance to the individual (col. 8, lines 11-13) and prompting the individual to *teach the desired skill to the virtual character* within the virtual environment, such that by *teaching the desired skill to the virtual character*, the individual *also* learns the skill (col. 7, lines 54-57; col. 8, lines 21-46); and providing a positive result to the individual when the *individual teaches the desired skill to the virtual character* (col. 9, lines 3-7; col. 3, lines 10-13; col. 2, lines 58-59; col. 19, line 44-57).

Regarding claims 2-3, Rapoza discloses that the instructions may be provided to a virtual character, where the instructions relate to the skill being taught to the user (col. 7, lines 54-57).

Regarding claims 4-5, Rapoza discloses that the instructions comprise direct (i.e., inducing an action by another character) and indirect (i.e., advice) instructions (col. 38, lines 22-37).

Regarding claim 6, Rapoza discloses that the indirect instructions may comprise providing an example (col. 38, lines 27-28).

Regarding claim 7, Rapoza discloses that the indirect instruction comprise creating an inference (col. 38, lines 28-30).

Regarding claim 8, Rapoza discloses that the virtual environment is configured so that additional virtual elements can be introduced into the environment (e.g., introducing cigarettes as a temptation to the user, col. 33, lines 45-60).

### *Response to Arguments*

3. Applicant's arguments filed February 5, 2007 have been fully considered but they are not persuasive.

Applicant contends that Rapoza merely engages in "role-playing" the virtual character as it experiences drugs and to the extent that there is any learning by the player, this learning is essentially vicarious and in the context of the character's behavior.

The examiner respectfully disagrees. Rapoza discloses the user teaching a desire skill to the virtual character within the environment, wherein the teaching of a desired skill is the social resistance to the social pressures to use drugs by going on missions that will be generated by the players characters in pursuit of their own goals (col. 19, line 43-57). Once the player's character learns the social resistance to the social pressures to use drugs, the player also learns the

consequence of using drugs. Giving a claim its broadest reasonable interpretation Rapoza discloses the claimed invention of a player teaching a desired skill to a virtual character within a virtual environment and providing a positive result to the player character and user.

*Conclusion*

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 571-272-4452. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3714

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robert E. Pezzuto  
Supervisory Patent Examiner  
Art Unit 3714

*APR*  
APR